SINGLE BENCH (1)

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IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION No. 3232/2005

PETITIONER

Shrachi Securities Limited, A company registered and incorporated under Companies Act 1956, having registered office at TODI MANSION, P-15, India Exchange Place Extension, Calcutta, 700 073, having branch office at Raipur, Represented through Sanjay Shrivastav, Authorised Signatory of the company.

P.R. No. 2361/05 Presented by Shri Bhuvan Rao 7-5-05

VERSUS

RESPONDENTS

1. State of Chhattisgarh, through the Secretary Transport, Mantralay, D.K.S Bhawan Raipur (C.G.).

2414/05

2. Road Transport Officers, Raipur.

3. Superintendent of Police, Raipur.

4. Station House Officer, Ganj Raipur (C.G.)

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT OF MANDAMUS, CERTIORARY OR ANY OTHER WRIT OR LIKE NATURE

The Petitioner most humbly begs to submit as under :-

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10.5.05
CLERK to Mr. C. BILASPUR

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर 59

आदेश पत्रक

मामला क्रमांक WP 3232 सन् 2005

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

8.8.2005

Shri Kishore, Bhaduri, counsel for the petitioner.

Shri U.N.S. Deo, Govt. Adv. for the State.

Respondent Nos.2 & 4 are present in Court.

Heard.

The case of the petitioner is that the petitioner company is a non-banking financial company, which finances vehicles to its clients on the basis of hire purchase agreement and in that process the company had financed a Tata Sierra vehicle to one Sukhvinder Singh Bhalla of Tatibandh, Raipur bearing Engine No.377008 MQQ 925030 & Chassis No.483DLTC48LQQ779302. The said vehicle was financed on an agreement of hire purchase dated 6.2.2001 (Annexure P-3), same was registered under registration No.CG04-2599 and accordingly, an endorsement was made in the registration certicate (Annexure P-4). Further case of the petitioner is that after payment of 2-3 installments the said borrower failed to pay further installments, therefore, the petitioner-Company had issued a notice to said borrower for payment of balance amount along with other charges and expenses. Despite said notice when no payment was made then the petitioner Company took the possession of vehicle on the ground of non-payment of dues. After repossession the said borrower in witness of one Ajit Singh lodged a report saying that the petitioner Company has committed dacoity/extortion. On such information the petitioner company had to take suitable information from the R.T.O, therefore, the company has moved an application before the R.T.O. for funishing the particulars of vehicle. The R.T.O. on receiving the

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..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
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application informed the petitioner company that on 5.6.2003 no objection certificate was issued by the company to strike out off the hypothecation endorsement, whereas, the certificate provided by the RTO showing that the vehicle was containing hypothecation entry up to 18.8.2004, this created doubt in the mind of petitioner company, therefore, the petitioner company vide letter Annexure P-8 informed the R.T.O. that for transfer of ownership no objection certificate regarding striking off the hypthecation endorsement has to be provided by the company under the signatures of two directors namely Mr. Ravi Todi & Mr. Sanjeev Agarwal and except the certificate issued under signatures of these two directors no certificate will be taken as authorized for issuance of no objection certificate. However, the police authorities of Police Station Gunj were after the employees of petitioner company and repeatedly calling upon them to appear before the police authorities because a case was registerd under Section 392 of the IPC.

On the first date of hearing after hearing counsel for the petitioner notices were issued, the R.T.O, Raipur & S.H.O, Police Station Gunj were directed to remain present in Court and in pursuance of that order they are present in Court today.

The defence of R.T.O, Raipur is that officials of RTO, Raipur received a letter dated 14.2.2003 on the letter head of petitioner-company along with an application filled in Form-35 under the seal and signature of the Company to the effect that as the hirer has paid all the amount due, therefore, no objection certificate was issued and

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..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

accordingly, the hypothecation endorsement was deleted from the registration certificate.

Learned counsel for the petitioner submits that the petitioner company had already gave a letter-dated 17.8.2004 (Annexure P-8) to the RTO stating that unless any no objection certificate or documents are signed by Mr. Ravi Todi, Director & Mr. Sanjeev Agarwal, Director, same should not be considered to be signed by or on behalf of the company and this letter was particularly given in respect of the vehicle in question, which was purchased in the name of Sukhvinder Singh after obtaining loan from the petitioner company. But, this no objection certificate and application form were submitted before the R.T.O. much before 17.8.2004. Shri Bhaduri also tried to argue that company also gave the letter prior to 17.8.2004, but he was not able to place on record the document showing the fact that on earlier occasions also the R.T.O. officials were informed about the said given information.

Now coming to the question regarding harrasment by police authorities of Police Station Gunj, respondent No.4-Shri N.P. Upadhayay is present in Court. He submits that on 11.4.2005 the petitioner gave information to him that they are going to take the repossession of vehicle in question. Thereafter, on 20.4.2005 a FIR was lodged at Police Station Pandri, Raipur from where the case was transferred to Police Station Tikrapara, Raipur and in that case said Sukhvinder Singh was arrested. He further submits that no case has been registered under Section 392 of the IPC against the petitioner company.

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
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Learned Government Advocate for the State submits that respondent No.4 never harrased any employee of petitioner company.

It appears that based on no objection certificate given by the petitioner company the R.T.O ordered for deletion of hypothecation clause from the registration certificate and thereafter, on 8.9.2004 the vehicle in question was transferred in the name of Amarjeet Singh Sethi.

Therefore, in view of the above fact that respondent No.4 is not harassing any of the petitioner company's employee and also the letter dated 17.8.2004 (Annexure P-8) this petition does not survive, same liable to be dismissed and it is dismissed.

Sd/-
L.C. Bhadoo
Judge

Roshan

(पीछे देखिये)

11.8.05 2.8.05 2.6.05